

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

United States of America,
Plaintiff,
v.
JOSE MUNGIA,
Defendant.

ORDER OF DETENTION PENDING TRIAL

Case Number: 10-30064

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

✓ (1) I find that:

- ✓ there is probable cause to believe that the defendant has committed an offense
- ✓ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- under 18 U.S.C. § 924(c).

✓ (2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

✓ I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

✓ I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

✓ I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- ✓ (a) nature of the offense - Large scale marijuana distribution (650 kilograms).
- ✓ (b) weight of the evidence - The evidence is very strong.
- ✓ (c) history and characteristics of the defendant -
 - 1) physical and mental condition -
 - ✓ 2) employment, financial, family ties - Defendant is an undocumented alien, and is currently in deportation proceedings in California.
 - 3) criminal history and record of appearance -
- ✓ (d) probation, parole or bond at time of the alleged offense - On immigration parole pending a March 10, 2010 deportation proceeding.
- ✓ (e) danger to another person or community -

This defendant was in sole possession of a tractor-trailer owned and operated by him and containing 650 kilograms of marijuana. He faces a mandatory minimum ten year prison term upon conviction. The evidence is strong. He is an illegal alien (Nicaraguan national) currently paroled pending exclusion proceedings. His prospect of attaining legal status in this country after conviction are remote. He is a flight risk. The charged conduct is a danger to the community. Pretrial Services recommends detention. I agree.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

s/Donald A. Scheer

Date: February 18, 2010

Signature of Judge

Donald A. Scheer, United States Magistrate Judge

Name and Title of Judge